

August 21, 2018



Talbot County Planning Commission
Draft Decision Summary

Tuesday, July 3, 2018 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

John N. Fischer, Jr., Chairman
Paul Spies, Vice Chairman
William Boicourt
Michael Sullivan
Phillip "Chip" Councill

Staff:

Mary Kay Verdery, Planning Officer
Miguel Salinas, Assistant Planning Officer
Brennan Tarleton, Planner I
Elisa Deflaux, Environmental Planner
Mike Mertaugh, Assistant County Engineer
Tony Kupersmith, County Attorney
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Fischer called the meeting to order at 9:00 a.m.

2. Decision Summary Review—June 6, 2018—The Commission noted the following corrections to the draft decision summary:

- a. Commissioner Fischer stated that despite the fact that the Commission agreed to shorten the Minutes, this version is too short. They would like to see the Commission's discussion included.
- b. Line 90, insert Commission's discussion.
- c. Line 137, insert Commission's discussion.
- d. Line 185, insert Commission's discussion.
- e. Line 219, insert Commission's discussion.
- f. Line 223, insert the word "but" after the word curtailed.
- g. Line 254, insert Commission's discussion.

Commissioner Boicourt moved to table the discussion of the draft decision summary for June 6, 2018 until next month; Commissioner Sullivan seconded the motion. The motion carried unanimously.

3. Old Business—None.

4. New Business

- a. Small Scale Subdivision—John & Marianne Ell, #M1164—8190 Beechley Road, Wittman, Maryland 21676 (map 30, grid 6, parcel 10, zoned Rural Residential/Western Rural Conservation), Brett Ewing, Lane Engineering, LLC, Agent.

Mr. Tarleton presented the staff report for preliminary review of a small scale subdivision to subdivide lot 1, establish lot 2 as a buildable lot and establish Summerton Lane as a 50 ft. wide private road right-of-way on a property located at 8190 Beechley Road, Wittman, Maryland.

Staff recommendations include:

1. The applicant shall address the June 13, 2018 TAC comments from the Department of Planning & Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District and the Environmental Planner prior to the Final Plat submittal.

Brett Ewing, Lane Engineering, LLC, agent for John and Marianne Ell, stated this project received Sketch approval in May. He believes they can comply with all comments, and would like to request final approval as well. The Commission asked if staff was in agreement and Mr. Tarleton responded they concurred.

Commissioner Fischer asked for public comments; none were made.

Commissioner Boicourt moved to grant preliminary and final approval for the John & Marianne Ell (Summerton Farm) preliminary small scale subdivision, 8190 Beechley Road, Wittman, Maryland; all staff recommendations being complied with. Commissioner Councill seconded the motion. The motion carried unanimously.

- b. Major Site Plan—Safe Harbour Homes #SP586 —947 Talbot Street, St. Michaels, Maryland 21663 (map 201, parcel 1305, zoned General Commercial/Gateway Overlay District), Christopher Waters, Davis, Bowen and Friedel, Inc., Agent.

Mr. Tarleton presented the staff report for the major site plan to construct a 1,329 sq. ft. building for a commercial modular home with handicap accessible features on the first floor and an accessory apartment on the second floor. Additionally, the applicant is requesting the following Waivers from the Talbot County Code: §190-110D. (1) – Buffer Yard; §190-110D; §190-110D. (5)(a) – Pedestrian access/walkway; §190-110 D. (5)(b) – Walkway easement; (6) (a) – Parking in the buffer yard; §190-110D. (6) (b) – Parking Location; §190-110E (2) (a) – Minimum front yard setback of 40'; §190-122B – Landscaped areas; §190-122C – Screening; §190-128G – Bicycle parking; §190-128H – Off-street loading area.

Staff recommendations include:

1. The applicant shall address the June 13, 2018 TAC comments from the Department of Planning & Zoning, Department of Public Works, Environmental Health Department, Talbot Soil Conservation District and the Environmental Planner prior to the Final Plat submittal.

- 101 2. The applicant shall make applications to and follow all of the rules,
102 procedures, and construction timelines as outlined by the Office of Permits
103 and Inspections regarding new construction.
104 3. The applicant shall commence construction on the proposed improvements
105 within twelve (12) months from the date of final approval.
106

107 Chris Waters of Davis, Bowen & Friedel, Inc., agent applicant and Dawn Lednum
108 of Safe Harbour Homes, appeared before the Commission. Mr. Waters stated he
109 spoke with the State Highway Administration and they did not object to having
110 the sidewalk in their right-of-way. Mr. Waters noted that the Town of St.
111 Michaels suggested placing a sidewalk, but the closest sidewalk is 800 feet away
112 within the town's boundary. Mr. Waters stated that, due to the size of the parcel,
113 they tried to keep the parking lot in a place where safety was of the utmost
114 importance and the stormwater facility needs to be placed in the back, which they
115 are working with Public Works to design. Overall, Mr. Waters stated, the biggest
116 problem with this lot is the size and trying to meet the buffers.
117

118 Commissioner Boicourt stated the Commission has been pro sidewalks, but Mr.
119 Waters' argument is a good one. Commissioner Councell stated it is his
120 understanding that State Highway has agreed to put the sidewalk in their right of
121 way. He said he visited the property and there is a lot of activity proposed on a
122 very small lot. He would like some background for the vision of this property.
123

124 Ms. Lednum, applicant, stated this is going to be a model home staffed with one
125 person, and a living area on the second floor. Ms. Lednum indicated the building
126 will be handicapped accessible without looking handicapped accessible and the
127 showroom will allow a customer to sit down with an agent and work on a remodel
128 or design a house for them.
129

130 Commissioner Councell asked where the street trees would go. Mr. Waters
131 discussed the location of the street trees and how they would enhance the
132 property.
133

134 Commissioner Fischer asked if the building would be a demonstration house and
135 if it would demonstrate what could be offered in terms of an accessible home. He
136 asked if the upstairs apartment would be occupied? Ms. Lednum stated there
137 would be someone living upstairs, probably one of her agents, but there would be
138 a stair lift that would go to the second story if someone requested to see the unit.
139

140 Commissioner Councell asked if the residence upstairs would require two parking
141 spaces. Ms. Verdery stated the upstairs apartment would take one space. Mr.
142 Tarleton reiterated, as an accessory to a commercial building, one parking space is
143 allotted.
144

145 Commissioner Fischer asked for an explanation of the buffer yard planting. Ms.
146 Verdery stated this property is located in the Gateway Overlay District and the

Code requires a transition area, typically ten feet of planting area, on the front of the lot.

Commissioner Fischer stated that when the Planning Commission previously met on this application, there were to be some conversations with the Town of St. Michaels. Commissioner Fischer asked if those conversations were held. Mr. Tarleton stated the main conversation with the Town was in relation to the sidewalk. Ms. Verdery added that there is always a concern by staff that if somebody does not put in the first section of the sidewalk, then every property owner along the road will question why they are required to install a sidewalk section that does not have an opportunity for connectivity.

Commissioner Councill indicated he was concerned there are one or two properties that have a sidewalk, after 10-15 years their sidewalk will be in disrepair when new sidewalks will be constructed. Personally, Mr. Councill added, he liked the idea of waiting for every property owner to install the sidewalks at the same time. Commissioner Boicourt stated his concern would be a paved bike trail as the businesses located along the roadway are very busy and require ingress and egress, which is not particularly safe.

Commissioner Fischer stated that ten waivers are too many and was concerned the Planning Commission would set precedence that will be difficult for other applications down the road. Commissioner Sullivan stated he disagreed because of the type of business they are proposing and asked what other use would have as little traffic as the one being proposed.

Commissioner Fischer asked for public comments; none were made.

Commissioner Councill moved to grant major site plan approval for Safe Harbour Homes, 947 S. Talbot Street, St. Michaels, Maryland; with staff recommendations. Commissioner Sullivan seconded the motion. The motion carried 3-2 (Fischer and Spies opposed.)

Commissioner Councill clarified that the sidewalk was to be placed in the State Highway easement. Commissioner Spies asked how this could occur. Ms. Verdery said this has not happened before so she was not sure of the process. Mr. Kupersmith stated he is familiar with contracts that are recorded and bind the current owner and any subsequent owners. The question was raised of whether or not you need a bond or letter of waiver to guaranty that the sidewalk will be built. Mr. Salinas stated we are at the mercy of the State Highway Administration because we have no jurisdiction over their land. Although the State Highway Administration approved the placement of the sidewalk in their right-of-way, Mr. Salinas said, the timing and design of construction is still to be determined.

Commissioner Councill moved to grant the waivers for Safe Harbour Homes, 947 S. Talbot Street, St. Michaels, Maryland, except for the bicycle

193 **parking requirement and the walkway easement waiver request.**
194 **Commissioner Sullivan seconded the motion. The motion carried**
195 **unanimously.**
196

197 The Planning Commission discussed the bicycle parking waiver and felt that due
198 to the size and use of this property, a bicycle parking space was not required. The
199 Planning Commission determined that if the property was to change use, the
200 applicant would need to address the requirement when they come back for another
201 site plan review.
202

203 **Commissioner Sullivan moved to grant the waiver for bicycle parking for**
204 **Safe Harbour Homes, 947 S. Talbot Street, St. Michaels, Maryland;**
205 **Commissioner Councill seconded the Motion. The motion carried 4 to 1**
206 **(Fischer opposed.)**
207

208 Commissioner Councill asked Mr. Waters what his thoughts were on bonding for
209 the future sidewalk and Mr. Waters said he needs to discuss this with the State
210 Highway Administration. Mr. Kupersmith said a bond could be held with either
211 cash or letter of credit. Commissioner Councill asked if it's possible to have an
212 easement on the property outside of the State Highway Easement. Mr.
213 Kupersmith stated that would create more confusion. The Planning Commission
214 asked staff how enforceable this agreement would be and Mr. Kupersmith stated
215 it would make more sense to have a recordable document since it's not clear when
216 the sidewalk would be built and what triggers the obligation in the future.
217

218 Commissioner Councill asked what obliges the state to agree to an email 20 years
219 from now and Mr. Kupersmith responded that there is no obligation. There was a
220 discussion between Planning Commission members and staff of the possibility in
221 the future of the State Highway Administration widening the road and how that
222 would affect the possibility of building a sidewalk.
223

224 **Commissioner Councill moved to grant the sidewalk waiver for Safe**
225 **Harbour Homes, 947 S. Talbot Street, St. Michaels, Maryland, on the basis of**
226 **the State Highway's approval of the construction of the sidewalk in the State**
227 **Highway's easement area. Commissioner Spies seconded the motion. The**
228 **motion carried unanimously.**
229

- 230 c. Major Revision Plat—Susan R Payne, et al.—E. Poplar Street, Bellevue,
231 Maryland 21662 (map 46, grid 12, parcel 148, zoned Village Center), Sean
232 Callahan, Lane Engineering, LLC, Agent.
233

234 Mr. Tarleton presented the major revision plat sketch plan staff report for the
235 purpose of reconfiguring 32 existing lots of record into 15 larger lots.
236

237 Staff recommendations include:
238

- 239 1. The applicant shall address the June 13, 2018 TAC comments from the
240 Department of Planning & Zoning, Department of Public Works,
241 Environmental Health Department, Talbot Soil Conservation District and the
242 Environmental Planner prior to the Final Plat submittal.
243

244 Mr. Callahan stated they are seeking sketch plan approval and presented slides of
245 the sketch plan which includes a potential buffer management area overlay district
246 and the consolidation of 32 developable lots, 11 of which are within the critical
247 area and encumbered by the 100 foot buffer. Mr. Callahan said County Council
248 approval is required to establish a buffer management area.
249

250 Mr. Callahan noted that the initial property was highly developed at one time with
251 a fish drying and packing facility, some residential buildings, and a bulk head
252 along a majority of the shoreline with a marina and skipjacks. The vast majority
253 of these improvements, Mr. Callahan described, have been removed today. Mr.
254 Callahan stated the 32 lots are developable for residential purposes, at 25 percent
255 lot coverage, because they are less than ½ acre and if built out to full capacity
256 they would have 202,000 sq. ft. of lot coverage. Post revision, Mr. Callahan
257 added, the impervious coverage would be 104,700 sq. ft. Mr. Callahan further
258 added that the project is unique because they consolidated small waterfront lots
259 and revised them into larger lots that have significantly less impact on the critical
260 area and the adjacent watershed.
261

262 Mr. Callahan stated the driveway that served the old factory, Shell Mill Road, and
263 Ripple Beach Lane, are keeping their recorded rights-of way and some of the
264 rights-of-way along the shoreline are combining back into lots. Generally, Mr.
265 Callahan added, the north and west part of the project is free and clear of issues
266 and there are wetlands which are proposed to be filled, but no more than needed
267 for building houses.
268

269 Commissioner Councell asked if mitigation would be required and Mr. Callahan
270 responded that mitigation would be a large part of the project. Mr. Callahan added
271 they would like to come back with the project in phases. Commissioner Councell
272 asked about the mitigation requirements. Mr. Callahan stated: 3:1 for forested, 2:1
273 for scrub shrub and 1:1 for emergent. He further stated the wetlands were created
274 when the ferry marsh was built and they are a remnant of bad grading.
275

276 Mr. Callahan stated the existing house and garage straddle a couple of existing
277 lots and a certificate of nonconformity has been submitted. He further stated that
278 the County found a building permit for the house, they did not find one for the
279 garage or the barn and no permits were found for the piers or other structures. Mr.
280 Callahan explained that the County Attorney met with staff to talk about to what
281 degree a certificate of nonconformity is required and whether these structures
282 have to be removed; certain structures are more important to the family.
283

Commissioner Councell asked if the mitigation would need to be done off-site. Mr. Callahan said yes, although some enhancements could be done on-site, such as on the marsh. Mr. Callahan added there is also some discussion of Talbot County acquiring some of this land for an expansion to Bellevue Park.

Commissioner Boicourt stated that the project appears to be consistent with the Master Plan and is a substantial reduction in lot coverage.

Commissioner Fischer asked if the applicant was going to request consideration for a buffer management area based upon the current lot consideration and Mr. Callahan responded they are going to do that as soon as possible and prior to final site plan approval.

Ms. Verdery stated there are difficult standards that have to be met and it will be up to the County Council to make that decision following a recommendation from the Planning Commission.

Commissioner Councell asked if the conditions from TAC were not insurmountable. Commissioner Fischer noted the Critical Area Commission did not mince words in their response to the application. Commissioner Fischer read aloud a portion of the Critical Area letter, then he stated he had not seen such strong language in the five years he had been on the Planning Commission. Ms. Verdery explained that Talbot County is different from some jurisdictions in that we have a subdivision process that includes sketch, preliminary and final plat reviews where some jurisdictions only present to their Planning Commissions what is essentially the final plat; providing a level of protection that other communities don't have.

Mr. Tarleton explained that Jennifer Esposito, a Critical Area Commission staff member, was at the TAC meeting and at that point in time the applicant had not addressed the criteria for lot line reconfiguration in COMAR. He noted they have started to address TAC and Critical Area comments and will continue to address those comments as they move through the process.

Commissioner Fischer asked for public comments; none were made.

Commissioner Boicourt moved to approve the sketch major revision plat for Susan R. Payne, et al. (Ripple Family), with staff recommendations being complied with; and also recommended the County Council pursue the property near the parking area at Bellevue Landing and monitor carefully the Buffer Management Area proposal and Critical Area comments. Commissioner Spies seconded the motion. The motion carried unanimously.

5. Discussions Items

Ms. Verdery stated the County Council is proposing to introduce legislation for NextStep190 on July 10th and they will also be introducing the Noise Ordinance on July 10th as well. She noted they want to keep the legislation separate but on the same track since they relate to one another. Ms. Verdery added that tentative public hearings will be held on August 13th and the County Council will hopefully move the legislation through September and complete everything in October, although she noted that since July has five Tuesday's a public hearing may be held at the end of July.

Ms. Verdery added that the NextStep190 webpage will be kept up to date.

6. Staff Matters

7. WorkSessions

8. Commission Matters

9. Adjournment—Commissioner Fischer adjourned the meeting at 10:52 a.m.

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